

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANTHONY MARANO COMPANY, )  
                                  )  
                                  )  
Plaintiff,                    )  
                                  ) Case No. 1:16-cv-02051  
vs.                            )  
                                  ) Judge: Samuel Der-Yeghiayan  
JOE CAPUTO & SONS, INC. a/t/a JOE                    )  
CAPUTO #1 a/t/a JOE CAPUTO #1 – DES                    ) Magistrate Judge: Jeffrey T. Gilbert  
PLAINES, *et al.*                    )  
                                  )  
Defendants.                    )

**MOTION TO EXTEND AND MODIFY TEMPORARY RESTRAINING ORDER**

Plaintiff, Anthony Marano Company, moves this Court to enter an order extending and modifying the Temporary Restraining Order entered on February 11, 2016 [Dkt. No. 16], extended on February 25, 2016 [Dkt. No. 26], and extended on March 10, 2016 [Dkt. No. 33] and in support thereof states as follows:

1. On February 9, 2016, Plaintiff Anthony Marano Company filed its Complaint [Dkt. No. 6] against Defendants Joe Caputo & Sons, Inc. a/t/a Joe Caputo #1 a/t/a Joe Caputo #1 – Des Plaines (“Des Plaines”), Joe Caputo & Sons Produce – Palatine, Inc. a/t/a Joe Caputo #2 a/t/a Joe Caputo #2 – Palatine a/t/a Caputo & Sons Palatine IL (“Palatine”), Joe Caputo & Sons – Algonquin, Inc. a/t/a Joe Caputo #3 a/t/a Joe Caputo #3 – Algonquin a/t/a Caputo & Sons Algonquin IL (“Algonquin”), Joe Caputo & Sons NB Inc. a/t/a Joe Caputo #4 a/t/a Joe Caputo #4 – Northbrook (“Northbrook”), Joe Caputo & Sons AH Inc. a/t/a Joe Caputo #5 a/t/a Joe Caputo #5 – Arlington Heights (“Arlington Heights”), Joe Caputo & Sons EGV Inc. a/t/a Joe Caputo #6 a/t/a Joe Caputo #6 – Elk Grove Village (“Elk Grove”), Natale Caputo a/k/a Nat V. Caputo (“Nat”), and Vito Caputo a/k/a Vito J. Caputo (“Vito”), to enforce its rights under the trust provisions of the Perishable Agricultural Commodities Act (“PACA”) 7 USC 499e (c ).

2. On February 11, 2016, after notice and hearing, this Court entered a Temporary Restraining Order [Dkt. No. 16], which remained in effect until February 25, 2016 at 5:00 p.m.

3. On February 25, 2016, after notice and hearing, this Court entered an Order Extending Temporary Restraining Order [Dkt. No. 26] which ordered that the Temporary Restraining Order [Dkt. No. 16] shall be extended and remain in effect until March 10, 2016 at 9:00 a.m.

4. On March 10, 2016, after notice and hearing, this Court entered an Order Extending Temporary Restraining Order [Dkt. No. 33] which ordered that the Temporary Restraining Order [Dkt. No. 16] shall be extended and remain in effect until April 14, 2016 at 10:00 a.m.

5. The Temporary Restraining Order [Dkt No. 16] provides that the sale of a particular store, a complete liquidation of a store's assets, or any proposed sale or liquidation of said assets are subject to the approval of the Court upon notice to all.

6. It is in the best interests of all parties in this case to sell, via auction, all of the assets owned by Joe Caputo and Sons, Inc., Joe Caputo and Sons Produce-Palatine, Inc., and Joe Caputo and Sons-Algonquin, Inc., as well as the assets owned by the related entities Randall Partners, LLC, Foxfire Partners, LLC, and Oaks SC Partners, LLC so that the value of the assets are maximized and protracted litigation and expense minimized for all concerned.

7. The selling entities with the consent of the Plaintiff's counsel have engaged Murray Wise Associates, LLC and Paine Wetzel Associates, Inc. to conduct a public auction of said assets. The assets shall be sold free and clear of liens, with any liens to attach to net proceeds of said sale. This motion specifically does not seek authority to sell any remaining store assets located at the now vacant Joe Caputo and Sons EGV, Inc. a/t/a Joe Caputo #6 –Elk Grove Village

location or any assets and store equipment that is currently stored in the vacant grocery store space at the Oaks shopping center in Des Plaines, Illinois.

8. For good cause shown, Plaintiff requests that the Temporary Restraining Order [Dkt. No. 16] and the extensions thereto [Dkt. No. 26 and 33] be further extended and that in addition the Temporary Restraining Order [Dkt. No. 16] be modified to allow the sale of assets via auction.

WHEREFORE Plaintiff, Anthony Marano Company respectfully requests this Court enter an Order further extending the Temporary Restraining Order and modifying its terms to allow for the sale of assets and any such other relief as this Court deems just.

This 11<sup>th</sup> day of April, 2016

Respectfully submitted,

By: /s/ Robert Marcus  
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